

DEPARTMENT OF LABOR AND INDUSTRY

CHAPTER 153

BOARD OF LANDSCAPE ARCHITECTS

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Sub-Chapter 1

Organizational Rule

24.153.101 BOARD ORGANIZATION (1) The board of landscape architects hereby adopts and incorporates the organizational rules of the department of labor and industry as listed in chapter 1 of this title. (History: 37-66-202, MCA; IMP, 2-4-201, MCA; NEW, Eff. 2/5/76; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2002 MAR p. 1498.)

Sub-Chapter 2

Procedural Rules

24.153.201 PROCEDURAL RULES (1) The board of landscape architects hereby adopts and incorporates the procedural rules of the department of labor and industry as listed in chapter 2 of this title. (History: 37-66-202, MCA; IMP, 2-4-201, MCA; NEW, Eff. 2/5/76; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2002 MAR p. 1498.)

24.153.202 PUBLIC PARTICIPATION RULES (1) The board of landscape architects hereby adopts and incorporates by this reference the public participation rules of the department of commerce as listed in chapter 2 of this title. (History: 37-66-202, MCA; IMP, 2-3-103, MCA; NEW, 1978 MAR p. 902, Eff. 6/24/78; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2002 MAR p. 1498.)

Sub-Chapter 3 reserved

Sub-Chapter 4

General Rules

24.153.401 QUORUM (1) Three members of the board shall constitute a quorum of any meeting. (History: 37-66-202, MCA; IMP, 37-66-201, MCA; NEW, Eff. 2/5/76; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2002 MAR p. 1498.)

24.153.402 SEALS (1) In accordance with 37-66-308, MCA, landscape architects shall affix a seal which must contain the name of the landscape architect, the landscape architect's Montana license number, the words "LICENSED LANDSCAPE ARCHITECT, STATE OF MONTANA" and the signature of the person who applied the seal. For the purpose of sealing

printed drawings, specifications, and other appropriate documents, each landscape architect shall obtain an embossing or rubber stamp and a reproduction facsimile of the seal to be used on documents prepared by or under the supervision of a licensed landscape architect. The seal or reproducible facsimile must be applied on all original drawings to produce legible reproduction on all copies or prints made from the drawings.

(2) A signature is:

(a) an original manual signature of the person who applied it; or

(b) a digital signature, which is an electronic authentication process attached or logically associated with an electronic document, must be:

(i) unique to the person using it;

(ii) capable of verification;

(iii) under the sole control of the person using it; and

(iv) linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

(3) When the efforts of more than one licensed landscape architect combine to produce documents requiring a seal, only one licensed landscape architect will be required to affix a seal to the document. (History: 37-66-202, MCA; IMP, 37-66-308, MCA; NEW, Eff. 2/5/76; AMD, 1979 MAR p. 1548, Eff. 12/14/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1983 MAR p. 344, Eff. 4/29/83; AMD, 1989 MAR p. 1279, Eff. 9/1/89; AMD, 1997 MAR p. 35, Eff. 1/17/97; TRANS, from Commerce, 2002 MAR p. 1498; AMD, 2002 MAR p. 3151, Eff. 11/15/02.)

24.153.403 FEE SCHEDULE (1) Fees shall be transmitted to the Montana state board of landscape architects or third party examination vendor (for examinations). Fees for examination sections administered by electronic means must be paid directly to the council of landscape architect registration boards. The board assumes no responsibility for loss in transit of such remittances. All fees are nonrefundable.

(2) The fees for landscape architects are as follows:

(a) Application fee for license by examination (includes original license fee) \$ 325

(b) License renewal 250

(c) Late fee 100

(d) Duplicate license 35

(e) Examination administration fee 100

(f) Proctored examination by other jurisdictions 150

(g) Exam review 50

(3) Examination fees are set by the testing agency and vary. Contact the board office for a current schedule of test section fees. (History: 37-1-131, 37-1-134, 37-66-202, MCA; IMP, 37-1-134, 37-66-202, 37-66-301, 37-66-304, 37-66-307, MCA; NEW, Eff. 2/5/76; AMD, 1979 MAR p. 649, Eff. 6/29/79;

AMD, 1981 MAR p. 842, Eff. 8/14/81; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 24, Eff. 1/13/84; AMD, 1985 MAR p. 245, Eff. 3/15/85; AMD, 1986 MAR p. 2059, Eff. 12/27/86; AMD, 1988 MAR p. 385, Eff. 2/26/88; AMD, 1990 MAR p. 1699, Eff. 8/31/90; AMD, 1992 MAR p. 912, Eff. 5/1/92; AMD, 1994 MAR p. 388, Eff. 2/25/94; AMD, 1994 MAR p. 1579, Eff. 6/10/94; AMD, 1997 MAR p. 35, Eff. 1/17/97; AMD, 1998 MAR p. 1915, Eff. 7/17/98; AMD, 1999 MAR p. 1122, Eff. 5/21/99; AMD, 2000 MAR p. 2004, Eff. 7/28/00; TRANS, from Commerce, 2002 MAR p. 1498; AMD, 2002 MAR p. 3151, Eff. 11/15/02; AMD, 2004 MAR p. 2287, Eff. 9/24/04; AMD, 2005 MAR p. 750, Eff. 5/13/05.)

Sub-Chapter 5

Licensing

24.153.501 APPLICATIONS (1) An application for license, examination or reinstatement must be made on a form provided by the board and completed and signed by the applicant, with the signature acknowledged before a notary public.

(2) The application must be typed or written in ink, signed and accompanied by the appropriate fee(s) and contain sufficient evidence that the applicant possesses the qualifications as set forth in Title 37, chapter 66, MCA, and rules promulgated thereunder.

(3) The applicant shall submit original or certified documents in support of the application. The board may permit such documents to be withdrawn upon substitution of a true copy.

(4) The applicant shall submit a recent, passport-type photograph.

(5) The board shall review fully-completed applications for compliance with board law and rules. The board may request additional information or clarification of information provided in the application as it deems reasonably necessary. Incomplete applications shall be returned to the applicant with a statement regarding incomplete portions.

(6) The applicant shall correct any deficiencies and resubmit the application as requested. Failure to resubmit the application within 60 days shall be treated as a voluntary withdrawal of the application. After voluntary withdrawal, an applicant will be required to submit an entirely new application to begin the process again.

(7) The board shall notify an applicant in writing of the results of the evaluation of the application within 30 days of receipt of a complete application. (History: 37-66-202, MCA; IMP, 37-66-202, MCA; NEW, Eff. 2/5/76; AMD, 1979 MAR p. 1548, Eff. 12/14/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1989 MAR p. 1279, Eff. 9/1/89; AMD, 1997 MAR p. 35, Eff. 1/17/97; TRANS, from Commerce, 2002 MAR p. 1498.)

24.153.502 EXAMINATIONS (1) All candidates must sit for a uniform national examination to be held at such time and place as the board may designate. Applications for taking the examination must be received in the board office 90 days prior to the next scheduled examination. The applicant will be notified in writing approximately 30 days prior to the examination date of whether the applicant may sit for the examination.

(2) All requests for reasonable accommodations under the Americans with Disabilities Act of 1990, as 42 U.S.C. 12101, et seq., relative to a board-administered examination, must be made on forms provided by the board and submitted with the application prior to any application deadline set by the board.

(3) Candidates shall provide a picture form of identification before being admitted to the examination.

(4) Applications of candidates who fail to sit for the examination within one year, after being notified of their eligibility, will be considered voluntarily withdrawn.

(5) The board shall notify candidates in writing of the results of the examination. No scores shall be released over the telephone or facsimile. The board shall release scores to the candidate or the candidate's legal representative only.

(6) Candidates who fail the examination and wish to review their examination must contact the testing agency directly. (History: 37-66-202, MCA; IMP, 37-66-304, MCA; NEW, Eff. 2/5/76; AMD, 1979 MAR p. 1548, Eff. 12/14/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 849, Eff. 4/30/82; AMD, 1984 MAR p. 24, Eff. 1/13/84; AMD, 1986 MAR p. 2059, Eff. 12/27/86; AMD, 1988 MAR p. 167, Eff. 1/29/88; AMD, 1988 MAR p. 1190, Eff. 6/10/88; AMD, 1989 MAR p. 1279, Eff. 9/1/89; AMD, 1997 MAR p. 35, Eff. 1/17/97; TRANS, from Commerce, 2002 MAR p. 1498; AMD, 2002 MAR p. 3151, Eff. 11/15/02.)

24.153.503 REPLACEMENT LICENSES (1) Licensees shall immediately notify the board of lost, damaged or destroyed licenses and obtain a duplicate license by written request to the board, stating the reason for issuance of a duplicate and by paying the appropriate fee. Licensees who have lawfully changed their names may, in their discretion, obtain a replacement license, but shall notify the board of such change in writing. (History: 37-66-202, MCA; IMP, 37-66-202, 37-66-303, MCA; NEW, Eff. 2/5/76; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1997 MAR p. 35, Eff. 1/17/97; TRANS, from Commerce, 2002 MAR p. 1498.)

Sub-Chapters 6 through 20 reserved

Sub-Chapter 21

Renewals

24.153.2101 RENEWALS (1) Renewal application forms will be sent to the licensee's address on file in the board office approximately 8-12 weeks prior to the renewal deadline of June 30. Failure to receive a renewal application form in no way releases the licensee from the obligation to renew prior to the expiration date of the license.

(2) The board finds that the nation relies on members of the national guard and the reserve branches of the armed forces for the nation's security, and that the members of the national guard and reserve forces are subject to call to active duty on short notice. In consideration of that service to the nation, the board finds that it is appropriate to defer the licensing renewal obligations of such individuals called to active duty status, provided that the individual is not required by the armed forces to maintain current professional or occupational licensing as a condition of serving in the armed forces.

(a) A person in the military service of the United States and who is in an active duty status, as defined by the Soldiers' and Sailors' Civil Relief Act, upon submission of appropriate evidence, is entitled to the following privileges:

(i) The person is not required to timely pay a renewal fee for license renewal that comes due while the person is in active duty status. The renewal fee is payable within six months following the person's discharge from active duty status. Unless otherwise relieved from the renewal application requirements, the person must timely apply for license renewal.

(ii) If the person provides proof to the board of the person's active duty status before the person's license expires, the person is relieved from having to timely submit a renewal application and any related documents or information during the period while the person is on active duty status. The person has six months following the person's discharge from active duty status to submit to the board such renewal applications and any related documents or information that came due during the period of the person's active duty status.

(b) In order to gain the benefits of this rule, the person must provide the board with proof of active duty status, including the date upon which the person was called to active duty status. The board may require the licensee to periodically provide information to the board regarding the person's active duty status or the date of the person's discharge from active duty status.

(c) A license that has not lapsed continues in the same status as existed the day before the person was called to active duty status, and remains in that status until the person renews the license or six months have elapsed from the person's discharge from active duty status, whichever comes first. (History: 37-1-131, 37-66-202, MCA; IMP, 37-1-131, 37-66-307, MCA; NEW, Eff. 2/5/76; AMD, Eff. 4/5/76; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1983 MAR p. 344, Eff. 4/28/83; AMD, 1988 MAR p. 167, Eff. 1/29/88; AMD, 1994 MAR p. 1579, Eff. 6/10/94; AMD,

1997 MAR p. 35, Eff. 1/17/97; TRANS, from Commerce, 2002 MAR p. 1498; AMD, 2002 MAR p. 3151, Eff. 11/15/02.)

Sub-Chapter 22 reserved

Sub-Chapter 23

Unprofessional Conduct

24.153.2301 UNPROFESSIONAL CONDUCT (1) In addition to the provisions of 37-1-316, MCA, and for the purpose of implementing Title 37, chapter 1, part 3, MCA, the board defines the following as unprofessional conduct:

(a) failure to disclose and obtain the written permission of all interested parties when compensation for services will be accepted from more than one party on a project;

(b) failure to disclose in writing to a client, any business association or direct or indirect financial interest which is substantial enough to influence the licensee's professional judgment in connection with the performance of services to a client;

(c) soliciting or accepting compensation from material or equipment suppliers in return for specifying or endorsing the material or equipment;

(d) failure to impartially interpret a building contract document as between the parties;

(e) misrepresentation to a prospective or existing client by the licensee of the licensee's qualifications and scope of responsibility in connection with the work for which the licensed landscape architect claims credit;

(f) revealing information obtained in the course of their professional activities which they have been asked to maintain in confidence or which could adversely affect the interests of another. Unique exceptions to this rule would include situations where a landscape architect stops an act creating harm, a significant risk to the public health, safety and welfare which cannot otherwise be prevented, establishing claims or defenses on behalf of licensees or an order to comply with applicable law and regulations;

(g) signing or attaching a seal to drawings, specifications, reports or other professional work for which the landscape architect does not have direct professional knowledge;

(h) failure to comply with the provisions of Title 37, chapter 66, MCA, or any rule promulgated thereunder. (History: 37-1-319, MCA; IMP, 37-66-202, MCA; NEW, 1997 MAR p. 35, Eff. 1/17/97; TRANS, from Commerce, 2002 MAR p. 1498.)